



Alexa Ardis

to me ▾

Wed, Jan 23, 10:32 AM



Hi Bill, thanks for bearing with me here — appreciate it!

First off, on background — the Court of Appeals is an error-correcting court. Most of their cases have clear answers, and they are bound to follow decisions of the Supreme Court and published Court of Appeals decisions. This means disagreement at the Court of Appeals is the exception, even among those with different judicial philosophies. The same was true for Judge Merrick Garland and Justice Brett Kavanaugh who served on the D.C. Circuit Court of Appeals together. The Wisconsin Supreme Court, however, hears only close questions, and justices do not need to strictly follow prior decisions of the Supreme Court and Court of Appeals. That is why differences are amplified on the Supreme Court in a way they are not in the lower courts.

In terms of a statement on the record, the below can be attributed to a campaign spokesman.

Judge Hagedorn is an originalist and **textualist**. The law is the words that are written. Therefore, statutes and the Constitution should be interpreted in accordance with the original public meaning of the words themselves. Judge Neubauer has never described herself that way. The only other possibility is to read the law in a way that gives judges the power to manipulate language to the judge's own liking.

The biggest differences in the cases they have decided together arise when Judge Neubauer's sense of justice is violated. In those cases, she is more willing to exercise judicial power to achieve her version of a just result. One example is State v. Denny, 2016 WI App 27, 368 Wis.2d 363, 878 N.W.2d 679, where Judge Neubauer ruled that the trial court unreasonably concluded the evidence was too overwhelming to grant DNA testing. The Wisconsin Supreme Court reversed Judge Neubauer's decision, citing Judge Hagedorn's opinion with approval.

Thanks,  
Alexa

